

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RICHARD DAVIS,

Petitioner,

-against-

JAMES FARRELL,
Acting Superintendent,

Respondent.
-----X

DOUGLAS F. EATON, United States Magistrate Judge.

I am annexing to this Memorandum and Order (a) a copy of Mr. Davis's May 23, 2008 letter to me, and (b) a copy of Assistant Attorney General Jodi A. Danzig's June 5, 2008 letter to Mr. Davis. Ms. Danzig has partially responded to Mr. Davis's fifth paragraph; I am now responding to his fourth paragraph.

As I mentioned in my April 28 Memorandum and Order, Ms. Danzig filed the trial transcript with our Court on April 15, 2008. To be more specific, the transcript consists of:

1. A Wade hearing (pages 2-47);
2. Proceedings the morning before jury selection (pages 48-122);
3. The Voir Dire (pages 123-187);
4. The Trial (pages 185/A-187/A, 188-582);
5. The Sentencing (pages 1-24).

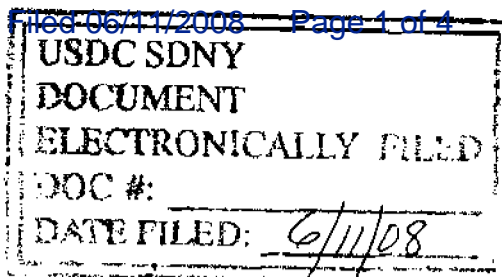
The Court does not have any of the following: the Grand Jury minutes, the People's Voluntary Disclosure form, the Omnibus Motion and response, the § 330.30 motion and response, the People's Exhibits 1-20, the Bill of Particulars, Petitioner's request for clarification, and petitioner's FOIL request. Normally the Grand Jury minutes are secret and are not pertinent to a federal habeas case. As to the other documents, if Mr. Davis believes that any of them is important to this habeas proceeding, then he should send that item (or items) to me with his reply papers, which are due on July 14, 2008.


-1-

USDC SDNY

DATE SCANNED

6/11/08 *ME*




DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
June 11, 2008

Copies of this Memorandum and Order (and copies of Mr. Davis's May 23, 2008 letter to me and copies of AAG Danzig's June 5, 2008 letter to Mr. Davis) were mailed on this date to:

Mr. Richard Davis
04-A-1735
Wallkill Correctional Facility
Route 208, Box G
Wallkill, NY 12589-0286

Jodi A. Danzig, Esq.
Attorney General's Office
for the State of New York
120 Broadway
New York, NY 10271

Hon. Barbara S. Jones

Richard Davis 04-A-1735
Wallkill Correctional Facility
Route 208, Box-G
Wallkill, New York 12589-0286

MAY 9 2008

Douglas F. Eaton (DFE)
United States Magistrate Judge
United States District Court
United States Courthouse
500 Pearl Street, Room 1360
New York, NY, 10007-1312

Re: Davis v Farrell 07 Civ. 5920 (BSJ)(DFE)

Dear, Honor,

First I would like to thank you for the (90) days extension, and the reason I am submitting this letter to you is due to a very important concern regarding the trial transcripts that was filed on April 15, 2008 to this Court by Assistant Attorney General (A.A.G.) Jodi A. Danzig.

Petitioner's have not received any transcript's from respondent's, so he is without any knowledge as to what documents this Court have before it concerning petitioner's grounds raised in his petition.

It is very important to know what issues requires exhibits in order to demonstrate that petitioner's United States Constitutional Rights was violated, so by knowing what documents was filed, petitioner's would know what exhibits to send and what not to send to this Court.

For example: do the Court have, the Grand Jury minutes, the people Voluntary Disclosure Form, the Omnibus Motion, the people response to the Omnibus Motion, the Crim Pro Law § 330.30 Motion, and the people response to the Motion, the Wade Hearing Minutes, (the people exhibits 1-20) the Bill of Particulars, petitioner's request for Clearification Motion, the Letter for reconsideration to the Court of Appeals, the FOIL request to the District Attorney Office, ect:

Therefore, Petitioner's only request that respondent's send a list or copy's of all the documents that was filed to this Court on April 15, 2008, to petitioner's.

Dtaed: May 23, 2008

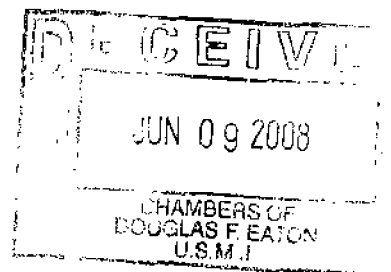
Respectfully Submitted

Richard Davis
Petitioner.

CC: Jodi A. Danzig, ESQ (A.A.G.)



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL



ANDREW M. CUOMO
Attorney General

CRIMINAL JUSTICE DIVISION
Federal Habeas Corpus Section

June 5, 2008

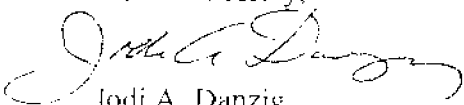
Mr. Richard Davis
O4-A-1735
Wallkill Correctional Facility
Box "G"
Wallkill, New York 12589-0286

Re: Davis v. Farrell, No. 07 Civ. 5920 (BSJ) (DFE)

Dear Mr. Davis,

I am an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, counsel to respondent in this habeas corpus proceeding. At the Court's request, I am writing to answer your May 23, 2008, letter, in which you request a list of documents that respondent filed with the Court. The documents that respondent filed were annexed as exhibits to my April 14, 2008, declaration, which was served on you at the above address. To reiterate, those documents were: your Appellate Division brief (Exhibit A); the People's Appellate Division brief (Exhibit B); the Appellate Division's opinion and order affirming your judgment of conviction (Exhibit C); the People's letter opposing your application for leave to appeal to the New York Court of Appeals (Exhibit D); certificate from the New York Court of Appeals denying leave (Exhibit E); certificate from the New York Court of Appeals denying reconsideration (Exhibit F); and September 19, 2007, and November 8, 2007, letters from the state court library to the Attorney General's Office regarding transcripts (Exhibit G).

Yours sincerely,


Jodi A. Danzig
Assistant Attorney General

cc: Honorable Douglas F. Eaton (by hand)
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Room 1360
New York, New York 10007